

**MINUTES OF THE REGULAR MEETING OF THE PLANNING BOARD OF  
THE VILLAGE OF IRVINGTON HELD IN THE TRUSTEES' ROOM,  
VILLAGE HALL, ON APRIL 2, 2003**

**Members Present:** Peter Lilienfield, Chairman  
Carolyn Burnett  
Jay Jenkins  
William Hoffman  
Walter Montgomery, Secretary

**Also Present:** Lino Sciarretta, Village Counsel  
Brenda Livingston, Ad Hoc Planning Board Member  
Edward P. Marron, Jr., Building Inspector  
Florence Costello, Planning Board Clerk  
Robert Citarell, Environmental Conservation Board Member  
Applicants and other persons mentioned in these Minutes

**IPB Matters**

**Considered:**           **03-08 – Lawrence Siegel & Susan Papano – 54 Manor Pond Lane**  
                                  Sht. 12B, Lot P-16  
                                  **03-09 – Robert Manzi/River City Grille – 6 South Broadway**  
                                  Sht. 6, B. 217, Lot 16A  
                                  **03-10 – R. L. Narayan – 3 Beechwood Road**  
                                  Sht. 13, Lot P-5  
                                  **03-11 – John Berry & Robin Dellabough – 19 Maple Street**  
                                  Sht. 7A, B. 232, Lot 7  
                                  **03-12 – Lisa Trencher & Karen Inghilterra – 6 Riverview Terrace (Amendment)**  
                                  Sht. 10D, B. 240, Lot 6  
                                  **01-26 – Danfor Realty – Harriman Road**  
                                  Sht. 13B, Lot P-5, P-5C  
                                  **02-44 - Westwood Development Associates, Inc.**  
                                  Lot 4

**Carried Over:**       **03-07 – William Horwitz – 9 Hudson Road East**

**Interim Development Law Referrals from Board of Trustees:**

**02-05 – C.M. Pateman & Associates Inc./Nicodemus – 200 Mountain Road**  
                                  Sht. 11, Lot P-27J  
                                  **02-11 – Geraldine McGowan-Hall – 200 Mountain Road/Hermits Rd.**  
                                  Sht. 11, Lot P-7J  
                                  **02-46 – Joseph DeNardo – 7 Roland Road**  
                                  Sht. 15, Lot P-123A

The Chairman called the meeting to order at 8:02 p.m.

Administrative:

With reference to a Local Law adopted by the Village Board prohibiting the Board from considering any application concerning property on which taxes are delinquent, Mrs. Costello advised the Board that the Village Clerk-Treasurer had confirmed that all properties on the Agenda were current as to taxes and fees. Further, unless otherwise noted, the Applicants submitted evidence of notice to Affected Property Owners.

**IPB Matter #03-07:**

**Application of William Horwitz for Site  
Development Plan Approval for property at  
9 Hudson Road East.**

On request of the applicant, this matter is to be carried over to the May meeting of the IPB. The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development Law of the Village of Irvington.

**IPB Matter #03-08:**

**Application of Lawrence Siegel & Susan Papano  
for Site Development Plan Approval for  
property at 54 Manor Pond Lane**

The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development Law of the Village of Irvington.

Craig Studer, architect, represented the applicants, who are seeking an amendment to their limited Site Development Plan Approval to allow for construction of an in-ground swimming pool and a spa and the enlargement of an existing wood deck. Plans entitled Siegel/Papano Residence by Studer Design Associates, John Karell, Jr. P.E., dated March 14, 2003 three (3) sheets were submitted.

The Chairman reviewed Mr. Mastromonaco's comments in his memorandum of April 2<sup>nd</sup>, as well as the Environmental Conservation Board's letter of April 1<sup>st</sup>, which proposed changes in the plans to reflect an "appropriate" drainage system for disposal of water from the pool and spa. Mr. Studer said water will be discharged into a street catch basin and noted that there will be no discharge until chemicals used to treat the pool water have had time to decompose into a harmless state. He also stated that the fencing will enclose both the pool and the spa, and that he will provide necessary details on the proposed deck.

Mr. and Mrs. Goldsmith, neighbors of the applicants, said they were concerned

that there would not be sufficient screening to protect the privacy of both parties. The Chairman asked the applicants to address Mr. Mastromonaco's comments, and to work with the Goldsmiths to resolve the screening issues.

The Board determined that the application was otherwise complete, and set a public hearing on this matter for its next regular meeting, on May 7<sup>th</sup>.

**IPB Matter #03-09:**

**Application of Robert Manzi/River City Grille  
for Site Development Plan Approval for  
property at 6 South Broadway**

The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development Law of the Village of Irvington.

Arthur Chason, architect, represented the applicant, and one of the owners of the River City Grille, Michael Pellicio, also appeared before the Board. The owners of this establishment are proposing to construct a 450-square-foot patio that will accommodate dining outside the restaurant building. Applicant submitted River City Site Plan dated March 17, 2003, by Arthur Chabon, Architect.

Mr. Chason said the project involves no architectural change to the restaurant itself, nor is there to be any significant alteration of the parking area used by this or adjacent businesses.

The Chairman noted that Section 224-36(B) of the Village required that all permitted uses in the Business District be carried on in buildings that are fully enclosed on all sides. Section 224A(7), however, was less clear with regard to restaurant use. The Chairman indicated that the Applicant should undertake additional review of the Business District regulations as they apply to this application. He also said there were discrepancies between the survey and the plans submitted by the applicant. Further, the plans involve the extension of an existing non-conforming condition and present a frontage issue. In addition, the plans must show how vehicular access to and from the parking area will be managed (specifically whether there is adequate room for the necessary maneuvering without cars backing out onto Broadway). One or more variances, he said, may be necessary to address these and other issues.

After further discussion, the Board requested that the applicant submit lease information with regard to the restaurant and adjacent user to clarify whether any lease provisions conflict with the applicant's plans. Mr. Marron asked for a letter from the landowner stating approval of the applicant's plans. Mr. Mastromonaco submitted a memorandum dated April 2<sup>nd</sup> outlining several comments on the proposed project.

Given the number of outstanding issues, it was determined that the applicant

needed to assemble the information requested prior to returning to the Planning Board. At such time, consideration shall be given to hearing the application or sending it to the Zoning Board of Appeals to address the required variances.

**IPB Matter #03-10:**

**Application of R. L. Narayan for Site  
Development Plan Approval for property at  
3 Beechwood Road.**

This application, while subject to the provision of the Interim Development Law of 2003, can be considered by the Planning Board as it involves less than 2500 sq. ft. of new construction.

James Sowlakis, architect, represented the applicant, who is proposing to construct a first-floor rear kitchen addition as well as a bedroom and a bathroom for use by a handicapped person, an expansion of the existing front-entrance porch and enlargement of the second floor master bedroom and bath. Plans entitled Narayan Residence by Sowlakis Architects last revised March 14, 2003 five (5) sheets were submitted.

Mr. Sowlakis said the plans will be changed to comply with the front-yard setback requirements of the Village Code. Mr. Marron said the existing front-entrance steps cannot be extended since they already reach into the setback area. The Chairman asked for additional information on plans for screening along Broadway. He also asked for additional information on drainage, as did Mr. Mastromonaco in a memorandum of April 2<sup>nd</sup>.

The Board determined the application to otherwise be complete, and set a public hearing on this matter for its May 7<sup>th</sup> meeting, pending the receipt of the requested information. No renotification is necessary.

**IPB Matter #03-11:**

**Application of John Berry & Robin Dellabough  
for Site Development Plan Approval or Waiver  
of such requirement for property at 19 Maple  
Street**

The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development Law of the Village of Irvington.

Mark Olson, architect, represented the applicants, who are seeking approval for a one-story addition to the rear of their house. Plans submitted were: Dellabough/Berry Residence by Berg, Hennessy Olson, LLP dated December 13, 2002, three (3) sheets.

Mr. Olson stated that necessary ZBA variances for the sideyard setback and coverage had been received. He said the applicant will attempt to avoid harming the tree close to the garage and noted that transplanting the tree would be feasible.

Mr. Marron cited the need for screening on the north side of the property. The Chairman pointed out that both Mr. Mastromonaco (in a memorandum of April 2<sup>nd</sup>) and the Environmental Conservation Board (in a letter of April 1<sup>st</sup>) have indicated the need for additional information on drainage. Mr. Marron said the applicant needs to link to the street sewer or put in a dry well, and that he could handle such issue on behalf of the Board.

Subject to the Applicant providing revised plans for drainage, tree preservation and screening to the Building Inspector, the Board determined the application could be treated as a Type II Action under SEQRA. Upon motion duly made and seconded, the Board adopted the following resolution:

**WHEREAS**, the Planning Board has determined in accordance with Section 224-71 of the Village Code that the proposed construction meets conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist which make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction does not violate existing zoning, will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances, to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship; and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for the Site Development Plan approval for this application, subject to the provision of drainage plans satisfactory to the Building Inspector.

**IPB Matter #03-12:**

**Application of Lisa Trencher & Karen  
Inghilterra for Amendment of an approved Site  
Development Plan for property at 6 Riverview  
Terrace (Amendment)**

This application, while subject to the provision of the Interim Development Law of 2003, can be considered by the Planning Board as it involves less than 2500 sq. ft. of new construction.

Eric Baker, architect, represented the applicants, who are seeking to add a

finished floor above an existing sunroom. This property was the subject of a previous application to the Planning Board (IPB #2002-21) at which time Site Development Plan approval was granted for a proposed expansion. The current application is a further expansion resulting from the construction presently underway. Plans entitled Trencher/Inghilterra Residence by Eric Baker Architecture last revised March 18, 2003, four (4) sheets were submitted.

The plans submitted also sought approval of a set or retaining walls in the rear of the residence. Insufficient information was presented on the plans to allow for the Planning Board and its consultants to address the retaining walls. The Applicant requested that the Planning Board consider only the 2<sup>nd</sup> floor expansion, and withdrew the portion of the request dealing with the retaining walls and other work proposed for the rear yard.

The Board consented to such revision, subject to the Applicant providing Mrs. Costello with revised plans without the retaining walls by the end of April 3, 2003; the applicant so concurred.

The Board determined that the application is a Type II Action under SEQRA. Upon motion duly made and seconded, the Board adopted the following resolution:

**WHEREAS**, the Planning Board has determined in accordance with Section 224-71 of the Village Code that the proposed construction meets conditions which permit Site Development Plan Approval to be waived in that (1) special conditions peculiar to the site exist which make submission of information normally required as part of an application for Site Development Plan Approval inappropriate or unnecessary, including the facts that the proposed construction does not violate existing zoning, will not affect any environmental features or resources requiring protection, and will not require major site disturbance or removal of any significant trees, (2) that in these circumstances, to require strict compliance with the requirements for Site Development Plan Approval may cause extraordinary or unnecessary hardship; and (3) that the waiver of requirements for Site Development Plan Approval will not have detrimental effects on the public health, safety or general welfare, or have the effect of nullifying the intent and purpose of Site Development Plan submission, the Official Map or Comprehensive Land Use Plan, or Zoning Ordinance of the Village of Irvington, or of any Local Law adopting or amending any of said Map, Plan or Ordinance, **NOW, THEREFORE**, the Planning Board hereby waives all requirements for the Site Development Plan approval for this application, subject to a revised set of plans by April 3, 2003.

**IPB Matter #01-26:**

**Application for Danfor Realty for Subdivision  
Approval for property adjoining Harriman  
Road**

The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development

Law of the Village of Irvington.

Mr. Paul Petretti, civil engineer and land surveyor, represented the applicant. This matter is a continuing application for preliminary subdivision layout and limited site plan approval of a seven-lot subdivision (2 lots of which are already improved). Drawings entitled: Shady Lane Improvement Plan by Paul Petretti, P.E. revised December 22, 2002 and Subdivision Map of Sunnyside View by Paul Petretti, P.E. revised December 22, 2002 were previously submitted.

The Chairman asked that the plans clearly depict the building and zoning envelopes and the conservation easements. Mr. Petretti said he would like to make Shady Lane 25 feet wide and convey an additional 25 feet to the adjoining property owners (the Brennans). The Chairman emphasized the importance of preserving the full Shady Lane right-of-way, and said that any land to be transferred to the Brennan family should be subject to such easement.

The Board, by consensus, said that for now Mr. Petretti could develop his plans on the basis of a 25-foot-strip, but this will be subject to ongoing review.

The Chairman told Mr. Petretti that his plans must be reconciled with the Village's new Master Plan, the finalization of which is still pending. He also stated that the fallen trees along Park Road should be cleaned up, and asked Mr. Marron to check the setbacks on radial curves, noting that those setbacks will affect the building envelopes.

The Chairman stated that, on the new road off Park Road, there must be access for the existing Fatato house adjacent to the Naughton residence. The Chairman also stated that the buffer on the south side of the proposed access road, between private property and the road, was essential.

He also advised Mr. Petretti that conservation-easement monuments would be necessary in keeping with prior Planning Board action on new subdivisions.

The Board determined that the application was sufficiently complete, subject to Mr. Petretti's fulfilling all of the remaining requests from the Board, and scheduled a public hearing to be scheduled for the IPB's regular meeting in May.

**IPB Matter #02-44**

**Application of Westwood Development  
Associates for Site Development Plan Approval  
for property at Lot 4, Westwood Subdivision**

The Board received a copy of a letter from the Village Administrator, dated March 18, 2003, granting the applicant a waiver from the 2003 Interim Development Law of the Village of Irvington.

Padriac Steinschneider and Kim Martin of Gotham Design appeared on behalf of the application. Mr. Steinschneider distributed to the Board his letter of March 28, 2003 that, together with its attachments, he believes will address issues that have been raised by Mr. Mastromonaco.

Mr. Steinschneider then commented on possible approaches to handling one of the issues raised by Mr. Mastromonaco: drainage on Lots 2, 3, 4 and 5 where the adjoining street is above the property grade found at the rear of these lots.

The Chairman noted that the Environmental Conservation Board, in its letter of April 1<sup>st</sup>, expressed concern about the impact of a proposed retaining wall (along the conservation easement): they stated that no trees in the conservation easement should be adversely affected by such wall. He also noted that Mr. Mastromonaco had cited, in his memorandum of April 2<sup>nd</sup>, the need for site plans prepared by an engineer or architect.

Mr. Steinschneider noted concern about the visual impact of an extended, monolithic wall as now being proposed along the conservation easement. He said that he is investigating how to vary the structure and appearance of the wall. The Chairman asked that walls of other developments be examined for possible ideas.

Kim Martin discussed coverage and height calculations, and Mr. Marron indicated that the plan he had reviewed met the coverage requirements. The Chairman asked Mr. Marron and Mr. Sciarretta to review the coverage and height calculations and clarify the proper way to determine the height for this property under Village Code.

This matter was continued.

### **Referrals from the Board of Trustees of Applications for Waivers of the Village's Interim Development Law**

The Village Board of Trustees, by letter dated March 18, 2003, referred three requests for waivers from the Interim Development Law of 2003 to the Planning Board for a report on the effect of the proposed plan upon the intended Comprehensive Master Plan. Each application involves a proposal that has been before the IPB:

IPB Matter #02-05 - C.M. Pateman & Associates Inc./Nicodemus – 200 Mountain Road

IPB Matter #02-11 - Geraldine McGowan-Hall – 200 Mountain Road/Hermits Road

IPB Matter #02-46 - Joseph DeNardo – 7 Roland Road

The IPB engaged in a lengthy discussion of how to respond, in an appropriate



manner, to the Board of Trustees. In that discussion, the Board considered primarily the following factors:

1. The extent to which the Board had previously reviewed the project;
2. The fairness of denying a waiver given the length of time an application had been before the Board;
3. Whether the application, prima facie, posed significant issues vis-à-vis the draft Comprehensive Master Plan on land use;
4. The ability of the Board to subject each application to further review if a waiver were granted by the Board of Trustees.
5. The amount of detail (or lack thereof) contained in the draft Comprehensive Master Plan with regard to modifications to the municipal regulations that might affect, or be affected by, such application.

In considering each of these criteria, the Board, by consensus, noted that it had limited time to evaluate each application against the provisions of the draft Comprehensive Master Plan, given its draft status and the need to report back to the Trustees by no later than April 15<sup>th</sup>.

On the basis of all these considerations, the Board, upon individual motion duly made and seconded, determined it should respond to the Board of Trustees in the following manner:

1. With respect to IPB Matter #02-11 (Hall) the Board, by a unanimous vote, indicated that it has no objection to a waiver from the moratorium being granted by the Board of Trustees; and
2. With respect to IPB Matter #02-05 (Pateman/Nicodemus), the Board, by a vote of 3-2 (Mr. Lilienfield and Mr. Hoffman in dissent), indicated that it has no objection to a waiver from the moratorium being granted by the Board of Trustees; and
3. With respect to IPB Matter #02-46 (DeNardo), the Board voted 4-0 (Mr. Jenkins recused himself) to recommend that the Board of Trustees reject the application for a waiver.

The Chairman stated that he would convey the IPB's responses to the Board of Trustees in writing prior to the April 15<sup>th</sup> deadline.

The Board then discussed the following additional matters that were not on the formal agenda:

### **In Lieu Fee Calculation – 2003**

The Chairman noted that the Subdivision Regulations of the Village (Chapter 207 of the Village Code) require the In Lieu Fee which is payable pursuant to Section 207-20 of the Subdivision Regulations by a subdivider who is required to dedicate to the Village less

than a Proportionate Recreation Share in order to meet New Development Park Demand is to escalate every January 1 based on the change in the US Dept. of Labor, Consumer Price Index, Urban Wage Earners and Clerical Workers (CPI-W) U.S. City average, all items. Because the index is prepared on a monthly basis, rather than a daily basis, the Board determined that it would be appropriate to continue its past practice of using the index in December as a benchmark for the index as of January 1<sup>st</sup> of each year, rather than to use the January index, and to use the index unadjusted for seasonal variation.

The index in December 1988 was 355.0 (1967 = 100). The index in December 2002 was 527.2. The Board then calculated the In Lieu Fee applicable to the calendar year 2003 as follows:

$$\begin{array}{rcl} \text{CPI December 2002} & = & 527.2 \\ \text{CPI December 1988} & = & \underline{355.0} \\ & & 172.2 \end{array}$$

$$172.2 / 355.0 = .48507 \text{ or } 48.507\% \text{ increase}$$

$$\$6,000 \times 48.507\% = \$2,910.42 + \$6,000 = \$8,910.42$$

On motion duly made, seconded, and unanimously carried, the Board decided to round the result of the calculation and determined the In Lieu Fee applicable to calendar year 2003 to be \$8,910.

**IPB Matter #00-40:**

**Astor Street Associates, LLC – Astor Street (MTA Sub-Station)**

The Chairman said that the Applicant is seeking an additional 90-day extension. The filing is to take place pursuant to the Board's March 6, 2002 resolution granting conditional approval of preliminary subdivision layout and approval of limited site development plan. The Board, upon motion duly made and seconded, voted to approve this request for an extension to July 2, 2003, with the stipulation that all required fees due from the applicant are to be paid within this new 90-day extension period, and b) if such fees are not paid, no further extension will be granted and the IPB's approvals will expire.

**IPB Matter #02-03:**

**Abbott House for Renewal of Special Permit.**

This matter pertains to Abbott House's previously submitted application for renewal of its special permit. The Chairman noted a letter of January 30, 2003 from the Village Attorney to counsel for Abbott House in which the Village Attorney indicated that Abbott House remains subject to the Village's special permitting procedures and should proceed with its request for a renewal per the Village Zoning code. Consequently,

the Board, by consensus, requested that Village Counsel notify the applicant that it needs to submit the necessary documentation to continue the process of renewing its special permit.

**IPB Matter #02-26:**

**Application of Michael Jason Development  
Corp. for Site Development Plan Approval for  
property at 4 Dows Lane.**

The Board reviewed, and adopted a Resolution based on the approvals granted on this application at the February 5, 2003 meeting.

**Minutes of the February 2003 Agenda Meeting**

The Board approved, by motion duly made and seconded, the minutes of the Board's regular meeting of February 5, 2003.

The meeting was adjourned at 11:24 p.m.

Respectfully submitted,

Walter Montgomery  
Secretary